

1
2
3
4
5
6
7
8
9
10
11

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JULIE CARLSON and ROBERT
STARK,

Plaintiffs,

v.

ANKA BEHAVIORAL HEALTH,
INC.,

Defendant.

NO. C10-3914 TEH

ORDER RE-OPENING CLASS
CLAIM PERIOD AND
CONTINUING FINAL APPROVAL
HEARING

12 The Court has reviewed the parties' stipulation to re-open the class claim period and
13 continue the final approval hearing due to the recent identification of 47 additional class
14 members.¹ Christopher Withrow, the president and CEO of Defendant Anka Behavioral
15 Health, Inc., states that, "after receiving requests from former employees to be added to the
16 Class, through the Claims Administrator, Anka manually reviewed the employee roster to
17 ensure that any additional employees be included in the Class prior to the Final Approval
18 Hearing. That search resulted in the discovery of 47 additional Class Members." Withrow
19 Decl. ¶ 4. He explains that these individuals were exempt employees who were "not eligible
20 to be part of the Class, for some part of the Class Period . . . , and as such, were likely missed
21 by the 'filter/search' function of the electronic search which Anka performed." *Id.* ¶ 6.

22 The Court agrees with the parties that Defendant's failure to include these class
23 members in the original notice distribution should not preclude the newly identified class
24 members' recovery.

25 However, although the Court understands that the costs of the Claims Administrator
26 are still estimated to be below the \$30,000 maximum included in the Settlement Agreement,

27
28 ¹Both the stipulation and proposed order refer to 46 additional class members, but the supporting declaration refers to 47. Withrow Decl. ¶¶ 4-6.

1 the Court is not convinced that the Class should bear the increased costs associated with
2 Defendant's error. The parties shall therefore meet and confer to attempt to reach agreement
3 on who should pay the additional costs. The Court is unlikely to approve payment of the
4 additional funds in any way that diminishes the Class's recovery.

5 With good cause appearing, IT IS HEREBY ORDERED that:

6 1. The class claim period will be re-opened to allow for the 47 inadvertently
7 excluded Class Members to receive notice of the Settlement and to decide whether to
8 participate in the Settlement or opt out.

9 2. The 47 new Class Members will be mailed Notice of the Settlement on
10 **June 10, 2013**, and Class Members will have 45 days (until **July 25, 2013**) in which to file a
11 claim, opt out, or object to the Settlement or the Motion for Attorneys' Fees.

12 3. On or before **August 1, 2013**, Class Counsel will submit supplemental Final
13 Approval briefing, including a declaration from the Claims Administrator, detailing the
14 results of including the additional Class Members in the Settlement. This submission will
15 include the result of the parties' meet-and-confer efforts regarding who should pay the
16 additional costs of the Claims Administrator.

17 4. The Final Approval Hearing is continued from June 10, 2013, to **August 19,**
18 **2013, at 10:00 AM.**

19

20 **IT IS SO ORDERED.**

21

22 Dated: 06/06/13

23


24

25

26

27

28



THELTON E. HENDERSON, JUDGE
UNITED STATES DISTRICT COURT